

STATE MINING & GEOLOGY BOARD

FINANCIAL ASSURANCE GUIDELINES

[GUIDELINES REVISED AND RE-ADOPTED JANUARY 16, 1997-A; REVISED BOND FORMS ADDED 6/10/98]

SURFACE MINING AND RECLAMATION ACT

FINANCIAL ASSURANCE GUIDELINES

Sections 2770 and 2773.1 of the Surface Mining and Reclamation Act of 1975 (SMARA, Public Resources Code Section 2710 et seq.) require surface mining operators to obtain lead agency (city or county) approved financial assurances for reclamation. SMARA was amended in 1992 by the enactment of AB 3098 (Sher, Chapter 1077, Statutes of 1992) which required the Board to adopt financial assurance guidelines by March 1, 1993 to implement SMARA Section 2773.1 and to assist mining operators and lead agencies in complying with the Act's financial assurance requirement. These guidelines, developed by the Board's Financial Assurance Committee, serve to clarify and supplement existing statute. They do not create new requirements for mining operators or local lead agencies. The Guidelines are reviewed, revised and re-adopted as necessary. Should SMARA be amended, statute will supersede this document.

(1) WHY ARE FINANCIAL ASSURANCES REQUIRED?

The State Legislature amended the Surface Mining and Reclamation Act (SMARA, Public Resources Code Section 2710 et seq.) to require surface mining operators to obtain lead agency (city or county) approved financial assurances for the reclamation of mined lands so that the public will not bear the cost of reclaiming abandoned surface mining operations. In the event of such abandonment or financial incapability, the funds will be used by the lead agency or the Department of Conservation (the Department) to reclaim the mined site.

Reference: SMARA Section 2770 (a)

(2) WHAT IS THE PURPOSE OF FINANCIAL ASSURANCES?

Financial assurances serve as an assurance that a surface mining operation will be reclaimed in accordance with its lead agency approved reclamation plan.

Reference: SMARA Section 2773.1(a).

(3) WHAT DO FINANCIAL ASSURANCES GUARANTEE?

Financial assurances assure reclamation of mined lands in accordance with the approved reclamation plan, including: (1) areas disturbed after January 1, 1976; (2) areas scheduled for disturbance in the next year; and (3) areas not successfully reclaimed pursuant to the lead agency approved reclamation plan.

Reference: SMARA Sections 2770(d); 2773.1(a)(4); and 2776

(4) WHAT IS THE LEAD AGENCY'S REVIEW PROCESS FOR FINANCIAL ASSURANCES?

The lead agency should develop a time schedule for the review and approval of the financial assurance and provide it to the mine operator upon submittal of the proposed financial assurance. The schedule should indicate: (1) the amount of time the lead agency and the Department have to review and comment on the proposed financial assurance; and, (2) when the operator can expect to receive final approval/denial of the proposed financial assurance. Upon final action, the lead agency should provide to the mine operator written notice of the following: (1) approval of the financial assurance, and the amount; or, (2) denial of the financial assurance, for what reasons, and a course of action available to the mine operator.

Reference: SMARA Section 2770(d)

(5) WHAT HAPPENS IF MY FINANCIAL ASSURANCES ARE NOT APPROVED BY THE LEAD AGENCY?

If an operator's proposed financial assurances are not approved by the lead agency, the operator should carefully examine the reasons provided by the lead agency for the denial of the financial assurances. If the operator believes that the financial assurances have not been approved because of lead agency inaction, or were denied for reasons not related to the requirements in SMARA or the Board's Regulations, then the operator may appeal the lead agency's inaction or denial of financial assurances to the Board within 15 days of exhausting his/her rights to appeal according to the procedures of the lead agency. The Board may either accept or decline to hear the appeal based on the evidence supplied by the appellant in its request.

Reference SMARA Section 2770(e)(f)(g)

(6) DOES THE DEPARTMENT REVIEW FINANCIAL ASSURANCES AND WHAT IS THE DEPARTMENT'S REVIEW PROCESS?

SMARA states that the lead agency approves all financial assurances, and any amendments thereto; however, the Department must have the opportunity to review all financial assurances, and any amendments, 45 days prior to lead agency approval. The Department review period shall start upon the Department's receipt of the proposed financial assurance, and end 45 calendar days after receipt. The financial assurance should be forwarded to the Department for review after review and preliminary approval of the assurance. The Department will review the proposed financial assurance for its consistency with the requirements provided by SMARA Sections 2770, 2773.1. Should the Department find the financial assurance to be inconsistent with statutory requirements, written comments specifying the deficiency(ies), and, if appropriate, suggested corrections will be forwarded to the lead agency for consideration. Should the lead agency's position vary with the Department's recommendations and objections regarding the financial assurance, or any amendments thereto, the lead agency must submit to the Department a statement of findings specifying the reasons for such action. Any amendments or changes to an existing financial assurance must be submitted to the Department for review prior to lead agency approval of the changes. *Reference: SMARA Sections 2774(c)-(d)*

(7) WHAT IS THE AMOUNT OF THE FINANCIAL ASSURANCE?

The amount of the financial assurance must be adequate to ensure that the lead agency or the Department can reclaim, pursuant to the approved reclamation plan, the mined lands (as defined by SMARA Section 2729) subject to the assurance described above. *Reference: SMARA Section 2773.1(a)*

(8) HOW SHOULD THE AMOUNT OF THE FINANCIAL ASSURANCE BE CALCULATED?

The Board recognizes that the amount of financial assurance is based on the size and type of operation per the approved reclamation plan. The amount of financial assurance must be calculated on a site specific basis.

The amount of the financial assurance should be calculated by the mine operator, a licensed engineer, or other professional experienced in the reclamation of mined lands, and based on: (1) an analysis of the physical activities necessary to implement the approved reclamation plan; (2) the lead agency's (or a third party contract) unit costs for each of these activities; (3) the number of units of each of these activities; and (4) an amount to cover contingency costs, (not to exceed 10% of the above calculated reclamation cost) and actual lead agency administrative costs. The calculated amount should not include the cost of completing the mining of the site. The value of mined material stockpiles located on the plant site should not be used to off-set the cost of reclaiming the plant site. The estimate used in determining the calculated amount of reclamation of the physical plant site, e. g. dismantling or removing the equipment, structures, and related facilities, may be net of the surplus/salvage value of the facilities to be reclaimed.

Documentation of the calculation should be made available for lead agency and Department review. Comments on acceptable procedures for the calculation of the amount of financial assurances are presented in Appendices A and A-1. Third party estimates, bids, or cost calculations from a company or contractor for performing reclamation of the physical plant, or for establishing the surplus/salvage value for the plant structures, equipment and related facilities to be removed, should contain the following information:

- a. name & location of company or contractor
- b. statement of qualifications and experience
- c. location of mine site & California Mine ID #
- d. description of work to be done
- e. net cost of such work
- f. dates that third party estimates, bid, or cost calculations is in force
- g. signature of responsible party

Third party estimates of the surplus/salvage value of the plant structures, equipment and related facilities to be reclaimed may also be based upon bids or quotes from companies in the business of buying scrap metals or similar products.

In the event that the approved reclamation plan lacks specific details for implementation, the unit activities necessary to reclaim the mined site should be detailed in a manner that provides for the approved end use, and the unit costs and number of units should be calculated.

Documentation of the calculation should be made available for lead agency and Department review.

Reference: SMARA Section 2773.1(a)

(9) WHAT IS THE DIFFERENCE BETWEEN A "FINANCIAL ASSURANCE" AND A "FINANCIAL ASSURANCE MECHANISM"?

A "financial assurance" is an assurance that reclamation will be completed on mined lands pursuant to the approved reclamation plan. A "financial assurance mechanism" is the instrument that serves as the financial assurance, such as a surety bond, trust fund or irrevocable letter of credit.

Reference: SMARA Sections 2770(a); and 2773.1(a)(1)

(10) WHAT TYPES OF FINANCIAL ASSURANCE MECHANISMS ARE ACCEPTABLE?

1. **Surety Bonds.** A surety bond is an indemnity agreement in an amount certain executed by either (1) the mine operator as principal and surety(ies) or (2) the surety(ies) alone.
Surety bonds must meet the applicable requirements of the California Code of Civil Procedures, Part 2, Title 14, commencing with section 995.010 (see Appendix B). Surety bonds should be issued for a specific period of time and should not be cancelable by the mining operator until new financial assurances are approved by the lead agency, after Department review. In addition, bonds should include a clause requiring the notice of cancellation to the lead agency and the Department a minimum of 120 days prior to any such cancellation to ensure the mining operator provides sufficient notice to fulfill the requirements of SMARA Section 2773.1(b).
2. **Trust Funds.** Trust funds are cash or cash certain financial devices put up by the mine operator. They may take the form of:
 - a. a cash account deposited in one or more federally insured accounts,
 - b. negotiable bonds, "held in escrow", of the United States, a state, county, or municipality endorsed by the mine operator, and rated "A" or better by a nationally recognized bond rating organization ("zero-coupon bonds" including "savings bonds" and some types of coupon municipal bonds may be used at their current market value as determined annually, but may not be used at their value at maturity before maturity occurs),
 - c. negotiable certificates of deposit in one or more federally insured depositories.

The lead agency, the Department and the bank holding the funds should maintain a record of the lead agency approved trust fund. Cash accounts and certificates of deposit should not exceed the applicable FDIC, FSLIC or insured account limits. Interest earned is not part of the financial assurance and should be payable to the mining operator at his/her discretion.

3. **Irrevocable Letters of Credit.** A letter of credit is a letter from any bank authorized to do business in the State of California granting credit on behalf of the mine operator.

Letters of credit should be for a specific period of time and must not be revocable by the mining operator until reclamation is completed pursuant to the approved reclamation plan and the lead agency issues a notice of release to the operator, or the letter of credit is replaced with another acceptable financial assurance mechanism.

4. **Other financial assurance mechanisms specified by the Board.** Regulations adopted by the Board specifying alternative mechanisms shall be implemented by these guidelines.

Reference: SMARA Section 2773.1(a)(1)

(11) WHO SELECTS THE FINANCIAL ASSURANCE MECHANISM?

The choice of the type of financial assurance mechanism should be that of the mine operator as long as the lead agency determines the financial assurance is adequate to perform reclamation in accordance with the approved reclamation plan. The mining operator may exchange one acceptable financial assurance mechanism with another acceptable mechanism of equivalent coverage so long as there is no lapse in coverage and the new financial assurance is approved by the lead agency after Department review.

Reference: SMARA Sections 2773.1(a)(1)-(4)

(12) TO WHOM MUST THE FINANCIAL ASSURANCE MECHANISM BE MADE PAYABLE?

The financial assurance must be made payable to the Lead Agency and, the Department of Conservation. The financial assurance may also be made payable to additional public agencies, including federal agencies responsible for enforcing reclamation requirements over the mining operation. (See Appendix C for examples of the appropriate wording.) The financial assurance mechanism may not be made payable to or assigned to the surface mining operator. The operator may not be named as a beneficiary on the financial assurance.

Reference: SMARA Section 2773.1(a)(4)

(13) WHAT FORMAT SHOULD BE USED FOR THE FINANCIAL ASSURANCE MECHANISM?

Examples of acceptable formats for Irrevocable Letter of Credit and Certificate of Deposit financial assurances are presented in Appendices D and F. The lead agency may accept these or other equivalent formats. Surety Bonds must be in a format approved by the Attorney General. Bond forms in Appendices E-1, E-2, E-3, E-4, and E-5 have been approved by the Attorney General. [Added 6/10/98]

(14) WHAT IS THE PERIOD OF LIABILITY FOR THE OPERATOR?

The mine operator is responsible for maintenance of financial assurances (as specified in Article No. 3 of these Guidelines) continuously throughout the life of the mining operation, (including idle periods and extended monitoring periods), until the reclamation is completed,

pursuant to the approved reclamation plan and the lead agency has approved the release of the financial assurances. The financial assurance mechanism need not be for the life of the mine, so long as a sequence of mechanisms is maintained which provide continuous coverage without lapse.

Reference: SMARA Sections 2770(h); 2773.1(a); and 2773.1(a)(2)

(15) WHAT TERM IS ACCEPTABLE FOR THE FINANCIAL ASSURANCE MECHANISM?

The financial assurance mechanism can be for the life of the mine or a lesser period of at least one year. The mechanism should remain in effect for the specified term of coverage plus an additional 120 days, during which time the lead agency can take the necessary steps to collect the financial assurance. The additional period of 120 days is not needed if a subsequent mechanism has been offered to and approved by the lead agency. Proof of a new, renewed or existing financial assurance must be provided annually to the lead agency and the Department pursuant to Public Resources Code Section 2207. Proof of the new or renewed financial assurance should be submitted prior to the existing financial assurance mechanism's expiration date.

Reference: SMARA Section 2773.1(a)(2); and Public Resources Code Section 2207(a)(9)

(16) WHEN SHOULD THE AMOUNT OF THE FINANCIAL ASSURANCE BE ADJUSTED?

The amount of the financial assurance must be reviewed annually by the lead agency and, if necessary adjusted to reflect changes in: (1) the cost of reclamation (as reflected in the Construction Cost Index or other generally used index), pursuant to the approved reclamation plan, of lands disturbed since January 1, 1976; (2) lands reclaimed in the previous year to the satisfaction of the lead agency; and (3) lands to be disturbed in the next year. In addition, when an approved reclamation plan is amended, and the amendment is approved by the lead agency, after Department review, financial assurances should be adjusted accordingly.

Reference: SMARA Section 2773.1(a)(3)

(17) WHEN SHOULD FINANCIAL ASSURANCES FOR A NEW SURFACE MINING OPERATION BE PROVIDED?

The financial assurance must be approved by the lead agency, after Department review, prior to the start of any mining activities. The financial assurance should be submitted after lead agency approval of the reclamation plan. Financial assurances for new surface mining operations must be calculated, reviewed, and approved in the same manner as financial assurances for existing mining operations. The mine operator should offer to the lead agency a financial assurance for its approval and the Department must have the opportunity to review the financial assurance 45 days prior to such approval. The financial assurance should provide for the performance of the approved reclamation plan for the land that will be disturbed in the next year.

Reference: SMARA Section 2770(a)

(18) ARE FINANCIAL ASSURANCES REQUIRED FOR "IDLE" MINES?

Financial assurances are required for idle mines in an amount sufficient to reclaim, pursuant to the lead agency approved reclamation plan, lands disturbed since January 1, 1976, lands to be disturbed in the next year, and lands not reclaimed successfully pursuant to the approved reclamation plan. Financial assurances for idle mines must be calculated, reviewed and approved in the same manner as financial assurances for active mining operations.

Reference: SMARA Section 2770(h)(2)

(19) WHAT MUST BE DONE WITH THE FINANCIAL ASSURANCE WHEN A MINING OPERATION IS SOLD OR OWNERSHIP IS OTHERWISE TRANSFERRED?

When a mining operation is sold, or ownership is otherwise transferred, the original owner's financial assurance must remain in effect until the lead agency has approved, after Department review, the replacement assurances. The prior owner's financial assurance should be released only upon the approval by the lead agency of the replacement financial assurance. (A replacement financial assurance must be approved in the same manner as the existing financial assurance).

Reference: SMARA Section 2773.1(c)

(20) WHEN SHOULD A FINANCIAL ASSURANCE BE RELEASED?

When the operator has completed reclamation, the operator should request a written notice from the lead agency that reclamation has been completed pursuant to the approved reclamation plan. Within 60 days of the lead agency's receipt of such a request, the lead agency should determine if reclamation has been completed pursuant to the approved reclamation plan. Prior to making this determination, the lead agency should conduct an inspection of the mining operations and, if necessary, a review of pertinent records, and otherwise satisfy itself that reclamation of the site has been completed, that any required extended monitoring periods have expired, and that reclamation standards as specified in the approved reclamation plan have been met.

Upon determining that reclamation has been successfully completed and prior to releasing the financial assurances, the lead agency should notify the operator, the Department, and any other coassignees-assignees, indicating reclamation has been completed pursuant to the approved reclamation plan and specifying the date the financial assurances are proposed to be released. This notice should allow a reasonable time for the Department and other coassignees to comment on the proposed release.

If the lead agency determines that reclamation has not been successfully completed, it should provide the operator with written notification of its determination along with a list of the specific actions required to successfully complete reclamation pursuant to the approved reclamation plan and obtain release of the financial assurance.

Reference: SMARA Section 2773.1(c)

APPENDIX A

RECLAMATION COST ESTIMATE CALCULATIONS

The preparation of reclamation cost estimates is a step-by-step process for calculating the amount of financial assurances necessary to perform site reclamation. The calculation will differ between locations based on the tasks necessary to implement the approved reclamation plan.

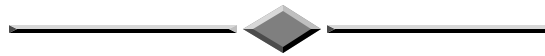
In response to inquiries from lead agencies and mine operators for guidance, the following Example of a Financial Assurance Cost Estimate calculation work sheet is offered. This information is provided as a guideline only. The work sheets are not to be interpreted by lead agencies or mine operators as a mandatory format for estimating reclamation costs.

Although an individual mining operation may encounter conditions not listed on the work sheets, through the application of basic estimating principles, most tasks can be broken down into component parts, and simplified. The following methodology (or one similar) may be considered in the development of reclamation cost estimates. The idea is to simplify the tasks and provide justification for the listed costs; merely listing the costs is not adequate.

- ✓ Describe the task to be performed. Examples would include: spoil grading, high wall reduction, revegetation, etc. Following the identification of broad reclamation categories, the component parts of these tasks should be identified. For example, revegetation may include seed bed preparation, seeding and fertilizing, irrigation and weed control. Each of these subtasks should be estimated individually to simplify the overall process. Where grading of a pit area is part of the reclamation plan, it is recommended that cross-sections and maps of pit areas be used to justify grading quantities.
- ✓ Identify the equipment necessary to complete the proposed task.
- ✓ Identify the labor requirements.
- ✓ Identify the materials to be used.
- ✓ Define each of the unit costs.
- ✓ Calculate Production Rates.
- ✓ Multiply the Unit Cost (e.g. \$/hr) by Production Rate (e.g. cubic yards/hr) to determine the total cost for each cost item (e.g. Scrapers). Add the costs for all cost items to find the total cost per category (e.g. Equipment).
- ✓ Add Total Cost of all categories (i.e. Equipment, Labor, Materials, etc.) to determine the Total Direct Cost of reclamation.

- ✓ Add charges for Supervision, Profit, Overhead, Contingencies and Mobilization.

A number of cost estimating manuals are available to assist you with the preparation of your financial assurance cost estimates. These manuals are available in government and technical book stores. It is often helpful to rely on a variety of sources, as not all categories are clearly defined and in some cases they are not listed at all. Personal experience can be a good indicator of the actual cost of performing certain tasks; however, the estimator should endeavor to provide justification for all listed costs.



Following is a list of references that may be helpful in calculating reclamation bond estimates:

1. ***The Cost Estimating Guide for Road Construction***, 1988, USDA Forest Service, Intermountain Region, 324 25th Street, Ogden, UT 84401. This publication contains information on road obliteration, earth moving, equipment rental, and wage rates. It is important to remember that equipment rental and wage rates vary, both geographically and with time. In determining labor rates and heavy equipment costs, local rates or rates prevailing in the area of the nearest source should be used.
2. ***The Cost Reference Guide for Construction Equipment***, 1988, The Equipment Guide Book Company (commonly referred to as "The Blue Book"). This lists guidelines for calculating equipment performance and costs per unit of material removed.
3. ***The Mine Cost Service***, 1989, Western Mine Engineering, P. O. Box 9008, Spokane, WA 99209. This publication lists prices and costs for labor, equipment, supplies, transportation, etc. Most Regional Office Mineral Staffs and Mineral Examiners have updated copies and are available to assist in providing helpful information and data for mineral operation costs.
4. ***The Mineral Industry Costs***, 1977 & 1981, Northwest Mining Association, 633 Peyton Building, Spokane, WA 99201. These publications provide data on Time, Risk Factors, Costs, Assessing Costs, and Estimating Various Project Costs. The costs are in 1980 dollars and an adjustment of 1980 dollars to current dollars must be made. Most Mining Engineers and Geologists can supply the factor needed to make the conversion.
5. ***Means Heavy Construction Cost Data, 6th Annual Edition***, 1992, R. S. Means Company, Inc., Construction Consultants and Publisher, 100 Construction Plaza, P. O. Box 800, Kingston, MA 02364-0800. Telephone (617) 585-7880. The manual provides current equipment and labor rates for a variety of heavy construction activities. This manual is difficult for the beginning estimator to use; however, through practice and familiarity, most tasks can be estimated with a reasonable expectation of accuracy. If questions arise concerning the location or application of certain construction activities, the estimating department will assist with questions by telephone.
6. ***Handbook for Calculation of Reclamation Bond Amounts***, 1987, United States Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW, Washington, D. C., 20240. This handbook provides an array of examples for estimating common mining reclamation activities. The publication is not

recommended for use by the beginning estimator. Proper application of the concepts illustrated requires advanced estimating and technical skills.

7. ***Caterpillar Performance Handbook***, 1991, Caterpillar Inc., Peoria, IL. This handbook lists the equipment specifications and production capabilities of all Caterpillar equipment. It is particularly useful for identifying equipment capabilities, various modifications and production rates.

State of California

DEPARTMENT OF CONSERVATION
Financial Assurance Cost Estimate
Form OMR-23 (New 06/96)

APPENDIX A-1
[EXAMPLE]

FINANCIAL ASSURANCE COST ESTIMATE

FOR

CA MINE ID# 91-_____

Prepared by:

Date: _____

Note: This worksheet was developed by the Office of Mine Reclamation to assist lead agencies and operators prepare a reclamation cost estimate and determine an appropriate amount for the financial assurance in conformance with Section 2773.1 of SMARA. It should be used in conjunction with the Financial Assurance Guidelines adopted by the State Mining and Geology Board. Like the guidelines, it is advisory only.

EXAMPLE

Instructions

The worksheet is divided into seven sections to simplify the cost analysis process. Below is a list of instructions for each section. Please read them carefully before filling out the form. If a section is not applicable, please indicate so with a brief statement. An equipment list is provided after Section 7 for summarizing equipment used for reclamation. In addition, a page is provided at the end of the form for notes and calculations. Copies of supporting documentation such as contractor estimates should also be attached.

Section I - Primary Reclamation Activities

This section should be used to calculate direct costs associated with primary reclamation activities. These activities include, but are not limited to: establishing final slopes on all cuts and fills, removal of haul/access roads, constructing drainage/erosion controls, decompacting staging/stockpile areas, demolition and disposal of building foundations and other debris as well as underground structures (i.e. storage tanks and septic systems), cleanup of bone yard areas, well closure, topsoil replacement/redistribution, finish grading, remediation of any soil contamination, and establishing access restrictions.

Refer to the approved reclamation plan to determine the various tasks required to reclaim the site. If the reclamation plan is not specific enough to provide this information, the lead agency should be consulted to help determine your reclamation requirements. Using the form provided, estimate the costs for each task by: 1) briefly describing the reclamation task to be performed and the methods to be implemented; 2) completing the calculation tables; and 3) adding the results at the bottom of the page. It may make it easier to break large mine sites into smaller areas and address each area separately. If this is done, make copies of the worksheet page and fill them out for each reclamation task and area. Page numbers were intentionally left off for this purpose so be sure to number the pages as they are completed.

Section II - Revegetation

This section should be used to calculate direct costs associated with revegetating disturbed areas. Revegetation activities include, but are not limited to: soil preparation/amendment, mulching, installation of irrigation systems, custom seed/plant collection, nursery services, hydro seeding, seed/plant installation, plant protection, and remediation.

Refer to the approved reclamation plan or revegetation program to determine the various tasks and materials required to revegetate the site. Follow the procedures discussed in Section I to estimate the costs for each task. Be sure to provide the unit of measure (i.e. pallet, pound, ton) in the materials table for the type of material to be used.

Section III - Plant Structures and Equipment Removal

This section should be used to calculate the costs associated with dismantling and removal of plant structures and equipment. The Financial Assurance Guidelines adopted by the State Mining and Geology Board provide that the cost to reclaim the plant site may be net of the surplus/salvage value of the facilities to be reclaimed. Please note however, that the value of mined material stockpiles located within the plant site area cannot be used to offset the cost of their removal. This reclamation cost should be provided in the primary reclamation activities section.

EXAMPLE

Refer to the approved reclamation plan to determine the tasks required to reclaim and remove the plant structures and equipment. Estimate these costs using the tables provided. To establish the salvage value of the plant site an estimate, bid or cost calculation from an impartial company or contractor which provides industrial dismantling or equipment salvage services, or is in the business of buying and selling scrap metals or similar products, must be provided. The estimate, bid or cost calculation should contain the following information:

- | | |
|------------------------------------------------|--------------------------------------------|
| a. Name & location of company or contractor | e. Cost of such work |
| b. Statement of qualifications and experience | f. Net salvage value of equipment/material |
| c. Location of mine site & California Mine ID# | g. Effective period of estimate or bid |
| d. Description of work to be done | h. Signature of responsible party |

Follow the directions provided in subsection E to determine if the cost to remove the plant equipment may be offset by its salvage value.

Section IV - Miscellaneous Costs

This section should be used to list any miscellaneous costs for materials, labor or services required to complete final reclamation and closure of the site (i.e. plant decommissioning, lead agency final inspections, reclamation mitigation measures, etc.). Using the table provided, list the item or service needed, the quantity, its unit cost (if appropriate) and total cost. Indicate the sum of these costs at the bottom of the page.

Section V - Monitoring

This section should be used to list the costs associated with any required monitoring of the site once initial reclamation has been completed. This could include monitoring for successful revegetation and habitat establishment, slope stability, erosion control, access controls, or site remediation (i.e. process reagents/hydrocarbons). Monitoring required by other agencies (i.e. California Regional Water Quality Control Board) and covered under a separate financial assurance need not be listed. Using the table provided, list the monitoring task, the cost per site visit, the number of site visits per year, the number of monitoring years and total cost. Indicate the sum of these costs in the space provided below the table. If a consultant will be conducting the monitoring, provide a copy of his/her estimate or contract.

Section VI - Supervision / Profit & Overhead / Contingencies / Mobilization

This section includes the costs associated with supervision of reclamation activities, profit and overhead, contingencies (unforeseen costs) and mobilization (the cost of moving equipment to and from the site). These costs are based on a percentage of the total direct costs and normally decline as the value of the operation increases. Refer to Graph 1 and Graph 2 to determine the percentage rates to be used.

Section VII - Summary of Costs

This section should be used to determine the total cost of reclamation and the amount of the financial assurance. Add all the cost sheets from each section together and place their totals in the spaces provided. The lead agency should determine how much, if any, administrative cost is to be added.

EXAMPLE**I. PRIMARY RECLAMATION ACTIVITIES**

Page ____ of ____

Description of Task:

Methods to be Used:

Miscellaneous Information:

Overburden (cubic yards): _____ Topsoil (cubic yards): _____ Acres: _____

Production Rate (cubic yards/hour): 1. _____ 2. _____ 3. _____ 4. _____

Haul Distance (feet): 1. _____ 2. _____ 3. _____ 4. _____

A. Equipment - List all equipment required to complete identified task. For large reclamation jobs separate mine areas for ease of accounting.

Equipment	Quantity	\$/Hour	# of Hours	Cost (\$)
1.				
2.				
3.				
4.				

Total Equipment Cost for this Task \$ _____

B. Labor - List all labor categories to complete identified task.

Labor Category	Quantity	\$/Hour	# of Hours	Cost (\$)

Total Labor Cost for this Task \$ _____

C. Materials - List all materials required to complete identified task (include disposal costs).

Item	Quantity	\$/Unit	Cost (\$)

Total Materials Cost for this Task \$ _____

D. Direct Cost for this Task

Equipment Cost + Labor Cost + Materials Cost = \$

EXAMPLE**II. REVEGETATION**

Page _____ of _____

Description of Task:

Methods to be Used:

A. Equipment - List all equipment required to complete identified task.

Equipment	Quantity	\$/Hour	# of Hours	Cost (\$)

Total Equipment Cost for this Task \$ _____

B. Labor - List all labor categories to complete identified task.

Labor Category	Quantity	\$/Hour	# of Hours	Cost (\$)

Total Labor Cost for this Task \$ _____

C. Materials - List all materials required to complete identified task.

Item / Plant Species	Unit of Measure	# of Units	\$/Unit	Cost (\$)

Total Materials Cost for this Task \$ _____

D. Direct Cost for this Task

Equipment Cost + Labor Cost + Materials Cost

\$ _____

EXAMPLE**III. PLANT STRUCTURES AND EQUIPMENT REMOVAL**

Page ____ of ____

Description of Task:

Methods to be Used:

A. Equipment - List all equipment required to complete identified task.

Equipment	Quantity	\$/Hour	# of Hours	Cost (\$)

Total Equipment Cost for this Task \$ _____

B. Labor - List all labor categories to complete identified task.

Labor Category	Quantity	\$/Hour	# of Hours	Cost (\$)

Total Labor Cost for this Task \$ _____

C. Demolition - List all structures and equipment to be dismantled or demolished.

Structure / Equipment	Type of Material	Volume (cubic feet)	Unit Cost Basis	Disposal Cost	Cost (\$)

Total Materials Cost for this Task \$ _____

D. Direct Cost for this Task

Equipment Cost + Labor Cost + Demolition Cost = \$ _____

EXAMPLE

Page ____ of ____

E. Surplus / Salvage Value

1. Total cost to reclaim plant structures and equipment pursuant to the approved reclamation plan. \$ _____
2. Net salvage value of the plant structures and equipment.* \$ _____
3. Subtract Line 2 from Line 1 \$ _____

4. If Line 3 is greater than \$0, enter this amount on the total plant structures and equipment removal cost line under Section VIII (Summary of Costs). If Line 3 is less than \$0, enter \$0 on the appropriate line in Section VIII.

***NOTE** This is the value of plant structures, buildings and equipment on a salvage basis -- e.g. after the structures and equipment have been removed for sale or use off-site. In order to include net salvage value in the financial assurance calculation, the operator must provide a letter of agreement, signed contract, bid or quote from an independent company which provides industrial dismantling or equipment salvage services, or is in the business of buying and selling scrap metals or similar products.

EXAMPLE**IV. MISCELLANEOUS COSTS**

Page ____ of ____

Examples of this type of cost could include temporary storage of equipment and materials off site, special one-time permits (i.e. transportation permits for extra wide or overweight loads, etc.), decommissioning a process mill (i.e. decontamination of equipment), or disposal of warehouse inventories.

Item / Task	Quantity	\$/Unit	Cost (\$)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Total Miscellaneous Costs \$ _____

V. MONITORING

Monitoring Task	\$/Visit	# Visits/Year	# of Monitoring Years	Cost (\$)
1.				
2.				
3.				
4.				
5.				

Total Monitoring Costs \$ _____

Re-adopted January 16, 1997-a

EXAMPLE

Page ____ of ____

VI. SUPERVISION/PROFIT & OVERHEAD/CONTINGENCIES/MOBILIZATION

A. Supervision - Supervision or reclamation management includes project inspection and supervision. These activities are usually performed by a consultant or staff member with experience in reclamation of disturbed lands. Reclamation management may include recommending change orders, verifying completed work, verifying compliance with project specifications, and other reclamation management oversight activities. Please refer to Graph No. 1 to determine the supervision cost factor.

B. Profit and Overhead - Where it becomes necessary for the Lead Agency or the Department of Conservation to complete reclamation of the mining site, a third party will be retained to do the actual reclamation work. Because profit and overhead costs are not included in the reclamation cost sheets, these costs must be added to the total reclamation estimate. Please refer to Graph No. 2 to determine the profit and overhead cost factor.

C. Contingencies - A contingency cost should be included in the financial assurance estimate to provide for project uncertainties and unexpected natural events. The U.S. Department of the Interior, Office of Surface Mining publishes the Handbook for Calculation of Reclamation Bond Amounts which recommends contingency percentages be based upon the level of direct costs, as shown below:

<u>Total Direct Cost (\$)</u>	<u>Contingency (%)</u>
0 - \$500,000	10
\$500,00 - 5 million	7
5 million - 50 million	4
Greater than 50 million	2

- D. Mobilization - Mobilization costs are attributed to moving equipment to the project site for reclamation purposes. These costs normally range between one and five percent of the total direct cost of the reclamation operations. These costs will vary depending upon the site location and the total value of the reclamation operations to be performed. Please insert the percentage used to estimate mobilization costs under Section VIII - Summary of Costs.

EXAMPLE

Page ____ of ____

VII. SUMMARY OF COST

Total of all Primary Reclamation Activities Costs	\$
Total of all Revegetation Costs	\$
Total of all Plant Structures & Equipment Removal Costs	\$
Total of all Miscellaneous Costs	\$
Total of all Monitoring Costs	\$ _____
Total of Direct Costs	\$
Supervision (____%)	\$
Profit/Overhead (____%)	\$
Contingencies (____%)	\$
Mobilization (____%)	\$ _____
Total of Indirect Costs	\$
Total of Direct and Indirect Costs	\$
Lead Agency Administrative Cost* (Determined by the Lead Agency)	\$ _____
Total Estimated Cost of Reclamation	\$

***Note** The Financial Assurance Guidelines recommend that when reviewing and approving a financial assurance cost estimate, lead agencies should include their administrative cost to draw on the financial assurance and implement the reclamation plan, should it become necessary.

EXAMPLE**EQUIPMENT LIST**

This attachment may be used to list the number and type of equipment to be used during reclamation. Write in the equipment under the general categories provided. If there is no category for the type of equipment to be used, please list it under the category entitled "Other Equipment".

TRACTORS	
MOTOR GRADERS	
LOADERS	
BACKHOES	
SCRAPERS	

EXCAVATORS	
ARTICULATED TRUCKS	
HAUL TRUCKS (Off Hwy)	
HAUL TRUCKS (On Hwy)	
WATER TRUCKS	

TRACTOR ATTACHMENTS	
OTHER EQUIPMENT	

EXAMPLE

APPENDIX B

[This Appendix contains selected provisions from the California Bond and Undertaking Law which may be applicable. Other provisions of statutory and case law may also be applicable. Consult a lawyer for legal advice if needed]

THE CALIFORNIA CODE OF CIVIL PROCEDURE
PART 2. CIVIL ACTIONS
TITLE 14. MISCELLANEOUS PROVISIONS
CHAPTER 2. BONDS AND UNDERTAKINGS

§ 995.010 -- This chapter shall be known and may be cited as the Bond and Undertaking Law.

§ 995.020 -- (a) The provisions of this chapter apply to a bond or undertaking executed, filed, posted, furnished, or otherwise given as security pursuant to any statute of this state, except to the extent the statute prescribes a different rule or is inconsistent.

(b) The provisions of this chapter apply to a bond or undertaking given at any of the following times:

(1) On or after January 1, 1983.

(2) Before January 1, 1983, to the extent another surety is substituted for the original surety on or after January 1, 1983, or to the extent the principal gives a new, additional, or supplemental bond or undertaking on or after January 1, 1983. Except to the extent provided in this section, the law governing a bond or undertaking given before January 1, 1983, is the law applicable to the bond or undertaking immediately before January 1, 1983, pursuant to Section 414 of Chapter 517 of the Statutes of 1982.

(c) The provisions of this chapter do not apply to a bail bond or an undertaking of bail.

§ 995.030 -- If service of a notice, paper, or other document is required under this chapter, service shall be made in the same manner as service of process in civil actions generally.

§ 995.040 -- An affidavit made under this chapter shall conform to the standards prescribed for an affidavit made pursuant to Section 437c.

§ 995.050 -- The times provided in this chapter, or in any other statute relating to a bond given in an action or proceeding, may be extended pursuant to Sections 1054 and 1054.1.

§ 995.110 -- Unless the provision or context otherwise requires, the definitions in this article govern the construction of this chapter.

§ 995.120 -- (a) "Admitted surety insurer" means a corporate insurer or a reciprocal or interinsurance exchange to which the Insurance Commissioner has issued a certificate of authority to transact surety insurance in this state, as defined in Section 105 of the Insurance Code.

(b) For the purpose of application of this chapter to a bond given pursuant to any statute of

this state, the phrases "admitted surety insurer," "authorized surety company," "bonding company," "corporate surety," and comparable phrases used in the statute mean "admitted surety insurer" as defined in this section.

§ 995.130 -- (a) "Beneficiary" means the person for whose benefit a bond is given, whether executed to, in favor of, in the name of, or payable to the person as an obligee.

(b) If a bond is given for the benefit of the State of California or the people of the state, "beneficiary" means the court, officer, or other person required to determine the sufficiency of the sureties or to approve the bond.

(c) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the terms "beneficiary," "obligee," and comparable terms used in the statute mean "beneficiary" as defined in this section.

§ 995.140.-- (a) "Bond" includes both of the following:

(1) A surety, indemnity, fiduciary, or like bond executed by both the principal and sureties.

(2) A surety, indemnity, fiduciary, or like undertaking executed by the sureties alone.

(b) A bond provided for or given "in an action or proceeding" does not include a bond provided for, or given as, a condition of a license or permit.

§ 995.150. -- "Court" means, if a bond is given in an action or proceeding, the court in which the action or proceeding is pending.

§ 995.160. -- "Officer" means the sheriff, marshal, constable, clerk of court, judge or magistrate (if there is no clerk), board, commission, department, or other public official or entity to whom the bond is given or with whom a copy of the bond is filed or who is required to determine the sufficiency of the sureties or to approve the bond.

§ 995.170. -- (a) "Principal" means the person who gives a bond.

(b) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the terms "obligor," "principal," and comparable terms used in the statute mean "principal" as defined in this section.

§ 995.180. -- "Statute" includes administrative regulation promulgated pursuant to statute.

§ 995.185.-- (a) "Surety" has the meaning provided in Section 2787 of the Civil Code and includes personal surety and admitted surety insurer.

(b) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the terms "bail," "guarantor," "bondsman," "surety," and comparable terms used in the statute mean "surety" as defined in this section.

§ 995.190. -- "Undertaking" means a surety, indemnity, fiduciary, or like undertaking executed by the sureties alone.

§ 995.210. -- Unless the provision or context otherwise requires:

- (a) If a statute provides for a bond, an undertaking that otherwise satisfies the requirements for the
- (b) bond may be given in its place with the same effect as if a bond were given, and references in the statute to the bond shall be deemed to be references to the undertaking.

(c) If a statute provides for an undertaking, a bond that otherwise satisfies the requirements for the undertaking may be given in its place with the same effect as if an undertaking were given, and references in the statute to the undertaking shall be deemed to be references to the bond.

§ 995.310. -- Unless the statute providing for the bond requires execution by an admitted surety insurer, a bond shall be executed by two or more sufficient personal sureties or by one sufficient admitted surety insurer or by any combination of sufficient personal sureties and admitted surety insurers.

§ 995.320. -- (a) A bond shall be in writing signed by the sureties under oath and shall include all of the following:
(1) A statement that the sureties are jointly and severally liable on the obligations of the statute providing for the bond.

(2) The address at which the principal and sureties may be served with notices, papers, and other documents under this chapter.

(3) If the amount of the bond is based upon the value of property or an interest in property, a description of the property or interest, and the principal's estimate of the value of the property or interest, or if given pursuant to the estimate of the beneficiary or court, the value as so estimated.

(b) The sureties signing the bond are jointly and severally liable on the obligations of the bond, the provisions of this chapter, and the statute providing for the bond.

§ 995.370. -- At the time a bond is given, the principal shall serve a copy of the bond on the beneficiary. An affidavit of service shall be given and filed with the bond.

§ 995.380. -- (a) If a bond does not contain the substantial matter or conditions required by this chapter or by the statute providing for the bond, or if there are any defects in the giving or filing of the bond, the bond is not void so as to release the principal and sureties from liability.

(b) The beneficiary may, in proceedings to enforce the liability on the bond, suggest the defect in the bond, or its giving or filing, and enforce the liability against the principal and the persons who intended to become and were included as sureties on the bond.

§ 995.410. -- (a) A bond becomes effective without approval unless the statute providing for the bond requires that the bond be approved by the court or officer.

(b) If the statute providing for a bond requires that the bond be approved, the court or officer may approve or disapprove the bond on the basis of the affidavit or certificate of the sureties or may require the attendance of witnesses and the production of evidence and may examine the sureties under oath touching their qualifications.

(c) Nothing shall be construed to preclude approval of a bond in an amount greater than that required by statute.

§ 995.420. -- (a) Unless the statute providing for a bond provides that the bond becomes effective at a different time, a bond is effective at the time it is given or, if the statute requires that the bond be approved, at the time it is approved.

(b) If the statute providing for a bond provides that the bond becomes effective at a time other than the time it is given or approved, the bond is effective at the time provided unless an objection is made to the bond before that time. If an objection is made to a bond before the time provided, the bond becomes effective when the court makes an order determining the sufficiency of the bond.

§ 995.430. -- A bond remains in force and effect until the earliest of the following events:

- (a) The sureties withdraw from or cancel the bond or a new bond is given in place of the original bond.
- (b) The purpose for which the bond was given is satisfied or the purpose is abandoned without any liability having been incurred.
- (c) A judgment of liability on the bond that exhausts the amount of the bond is satisfied.
- (d) The term of the bond expires. Unless the statute providing for the bond prescribes a fixed term, the bond is continuous.

§ 995.440. -- A bond given as a condition of a license or permit shall be continuous in form, remain in full force and effect, and run concurrently with the license or permit period and any and all renewals, or until cancellation or withdrawal of the surety from the bond.

§ 995.510. -- (a) A personal surety on a bond is sufficient if all of the following conditions are satisfied:

- (1) The surety is a person other than the principal. No officer of the court or member of the State Bar shall act as a surety.
- (2) The surety is a resident, and either an owner of real property or householder, within the state.
- (3) The surety is worth the amount of the bond in real or personal property, or both, situated in this state, over and above all debts and liabilities, exclusive of property exempt from enforcement of a money judgment.

(b) If the amount of a bond exceeds ten thousand dollars (\$10,000) and is executed by more than two personal sureties, the worth of a personal surety may be less than the amount of the bond, so long as the aggregate worth of all sureties executing the bond is twice the amount of the bond.

§ 995.520. -- (a) A bond executed by personal sureties shall be accompanied by an affidavit of qualifications of each surety.

(b) The affidavit shall contain all of the following information:

- (1) The name, occupation, residence address, and business address (if any) of the surety.
- (2) A statement that the surety is a resident, and either an owner of real property or householder, within the state.
- (3) A statement that the surety is worth the amount of the bond in real or personal property, or both, situated in this state, over and above all debts and liabilities, exclusive of property exempt from enforcement of a money judgment.

(c) If the amount of the bond exceeds five thousand dollars (\$5,000), the affidavit shall contain, in addition to the information required by subdivision (b), all of the following information:

- (1) A description sufficient for identification of real and personal property of the surety situated in this state and the nature of the surety's interest therein that qualifies the surety on the bond.
- (2) The surety's best estimate of the fair market value of each item of property.

(3) A statement of any charge or lien and its amount, known to the surety, whether of public record or not, against any item of property.

(4) Any other impediment or cloud known to the surety on the free right of possession, use, benefit, or enjoyment of the property.

(d) If the amount of the bond exceeds ten thousand dollars (\$10,000) and is executed by more than two sureties, the affidavit may state that the surety is worth less than the amount of the bond and the bond may stipulate that the liability of the surety is limited to the worth of the surety stated in the affidavit, so long as the aggregate worth of all sureties executing the bond is twice the amount of the bond.

§ 995.610. -- (a) If a statute provides for a bond with any number of sureties, one sufficient admitted surety insurer may become and shall be accepted as sole surety on the bond.

(b) The admitted surety insurer is subject to all the liabilities and entitled to all the rights of personal sureties.

§ 995.620. -- Two or more admitted surety insurers may be sureties on a bond by executing the same or separate bonds for amounts aggregating the required amount of the bond. Each admitted surety insurer is jointly and severally liable to the extent of the amount of the liability assumed by it.

§ 995.630. -- An admitted surety insurer shall be accepted or approved by the court or officer as surety on a bond without further acknowledgment if the bond is executed in the name of the surety insurer under penalty of perjury or the fact of execution of the bond is duly acknowledged before an officer authorized to take and certify acknowledgments, and either one of the following conditions, at the option of the surety insurer, is satisfied:

(a) A copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer entitling or authorizing the person who executed the bond to do so for and in behalf of the insurer, is filed in the office of the clerk of the county in which the court or officer is located.

(b) A copy of a power of attorney is attached to the bond.

§ 995.640. -- The county clerk of any county shall, upon request of any person, do any of the following:

(a) Issue a certificate stating whether the certificate of authority of an admitted surety issuer issued by the Insurance Commissioner authorizing the insurer to transact surety insurance, has been surrendered, revoked, canceled, annulled, or suspended, and in the event that it has, whether renewed authority has been granted. The county clerk in issuing the certificate shall rely solely upon the information furnished by the Insurance Commissioner pursuant to Article 2 (commencing with Section 12070) of Chapter 1 of Part 4 of Division 2 of the Insurance Code.

(b) Issue a certificate stating whether a copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of an admitted surety insurer entitling or authorizing the person who executed a bond to do so for and in behalf of the insurer, is filed in the office of the clerk.

§ 995.650. -- If an objection is made to the sufficiency of an admitted surety insurer, the person making the objection shall attach to and incorporate in the objection one or both of the following:

(a) The certificate of the county clerk of the county in which the court is located stating that the insurer has not been certified to the county clerk by the Insurance Commissioner as an admitted

surety insurer or that the certificate of authority of the insurer has been surrendered, revoked, canceled, annulled, or suspended and has not been renewed.

(b) An affidavit stating facts that establish the insufficiency of the insurer.

§ 995.660. -- (a) If an objection is made to the sufficiency of an admitted surety insurer on a bond or if the bond is required to be approved, the insurer shall submit to the court or officer the following documents:

(1) The original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument entitling or authorizing the person who executed the bond to do so, within 10 calendar days of the insurer's receipt of a request to submit the instrument.

(2) A certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner, within 10 calendar days of the insurer's receipt of a request to submit the copy.

(3) A certificate from the clerk of the county in which the court or officer is located that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted, within 10 calendar days of the insurer's receipt of the certificate.

(4) Copies of the insurer's most recent annual statement and quarterly statement filed with the Department of Insurance pursuant to Article 10 (commencing with Section 900) of Chapter 1 of Part 2 of Division 1 of the Insurance Code, within 10 calendar days of the insurer's receipt of a request to submit the statements.

(b) If the admitted surety insurer complies with subdivision (a), and if it appears that the bond was duly executed, that the insurer is authorized to transact surety insurance in the state, and that its assets exceed its liabilities in an amount equal to or in excess of the amount of the bond, the insurer is sufficient and shall be accepted or approved as surety on the bond, subject to Section 12090 of the Insurance Code.

§995.710. -- (a) Except to the extent the statute providing for a bond precludes a deposit in lieu of bond or limits the form of deposit, the principal may, instead of giving a bond, deposit with the officer any of the following:

(1) Lawful money of the United States. The money shall be maintained by the officer in an interest-bearing trust account.

(2) Bearer bonds or bearer notes of the United States or the State of California.

(3) Certificates of deposit payable to the officer, not exceeding the federally insured amount, issued by banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation or by savings and loan associations authorized to do business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(4) Savings accounts assigned to the officer, not exceeding the federally insured amount, together with evidence of the deposit in the savings accounts with banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation.

(5) Investment certificates or share accounts assigned to the officer, not exceeding the federally insured amount, issued by savings and loan associations authorized to do business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(6) Certificates for funds or share accounts assigned to the officer, not exceeding the guaranteed amount, issued by a credit union, as defined in Section 14002 of the Financial

Code, whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Corporations.

(b) The deposit shall be in an amount or have a face value, or in the case of bearer bonds or bearer notes have a market value, equal to or in excess of the amount that would be required to be secured by the bond if the bond were given by an admitted surety insurer. Notwithstanding any other provision of this chapter, in the case of a deposit of bearer bonds or bearer notes other than in an action or proceeding, the officer may, in the officer's discretion, require that the amount of the deposit be determined not by the market value of the bonds or notes but by a formula based on the principal amount of the bonds or notes.

(c) The deposit shall be accompanied by an agreement executed by the principal authorizing the officer to collect, sell, or otherwise apply the deposit to enforce the liability of the principal on the deposit. The agreement shall include the address at which the principal may be served with notices, papers, and other documents under this chapter.

(d) The officer may prescribe terms and conditions to implement this section.

§ 995.720. -- (a) The market value of bearer bonds or bearer notes shall be agreed upon by stipulation of the principal and beneficiary or, if the bonds or notes are given in an action or proceeding and the principal and beneficiary are unable to agree, the market value shall be determined by court order in the manner prescribed in this section. A certified copy of the stipulation or court order shall be delivered to the officer at the time of the deposit of the bonds or notes.

(b) If the bonds or notes are given in an action or proceeding, the principal may file a written application with the court to determine the market value of the bonds or notes. The application shall be served upon the beneficiary and proof of service shall be filed with the application. The application shall contain all of the following:

(1) A specific description of the bonds or notes.

(2) A statement of the current market value of the bonds or notes as of the date of the filing of the application.

(3) A statement of the amount of the bonds or notes that the principal believes would be equal to the required amount of the deposit.

(c) The application pursuant to subdivision (b) shall be heard by the court not less than five days or more than 10 days after service of the application. If at the time of the hearing no objection is made to the current market value of the bonds or notes alleged in the application, the court shall fix the amount of the bonds or notes on the basis of the market value alleged in the application. If the beneficiary contends that the current market value of the bonds or notes is less than alleged in the application, the principal shall offer evidence in support of the application, and the beneficiary may offer evidence in opposition. At the conclusion of the hearing, the court shall make an order determining the market value of the bonds or notes and shall fix and determine the amount of the bonds or notes to be deposited by the principal.

§ 995.730. -- A deposit given instead of a bond has the same force and effect, is treated the same, and is subject to the same conditions, liability, and statutory provisions, including provisions for increase and decrease of amount, as the bond.

§ 995.740. -- If no proceedings are pending to enforce the liability of the principal on the deposit, the officer shall:

(a) Pay quarterly, on demand, any interest on the deposit, when earned in accordance with the terms

of the account or certificate, to the principal.

(b) Deliver to the principal, on demand, any interest coupons attached to bearer bonds or bearer notes as the interest coupons become due and payable, or pay annually any interest payable on the bonds or notes.

§ 995.750. -- (a) The principal shall pay the amount of the liability on the deposit within 30 days after the date on which the judgment of liability becomes final.

(b) If the deposit was given to stay enforcement of a judgment on appeal, the principal shall pay the amount of the liability on the deposit, including damages and costs awarded against the principal on appeal, within 30 days after the filing of the remitter from the appellate court in the court from which the appeal is taken.

§ 995.760. -- (a) If the principal does not pay the amount of the liability on the deposit within the time prescribed in §995.750, the deposit shall be collected, sold, or otherwise applied to the liability upon order of the court that entered the judgment of liability, made upon five days' notice to the parties.

(b) Bearer bonds or bearer notes without a prevailing market price shall be sold at public auction. Notice of sale shall be served on the principal. Bearer bonds or bearer notes having a prevailing market price may be sold at private sale at a price not lower than the prevailing market price.

(c) The deposit shall be distributed in the following order:

(1) First, to pay the cost of collection, sale, or other application of the deposit.

(2) Second, to pay the judgment of liability of the principal on the deposit.

(3) Third, the remainder, if any, shall be returned to the principal.

§ 995.770. -- A deposit given pursuant to this article shall be returned to the principal at the earliest of the following times:

(a) Upon substitution of a sufficient bond for the deposit. The bond shall be in full force and effect for all liabilities incurred, and for acts, omissions, or causes existing or which arose, during the period the deposit was in effect.

(b) The time provided by § 995.360 for return of a bond.

(c) The time provided by statute for return of the deposit.

§ 995.810. -- The provisions of this article apply to a bond executed to, in favor of, in the name of, or payable to the State of California or the people of the state, including but not limited to an official bond.

§ 995.820. -- Except as otherwise provided by statute, a bond given by an officer of the court for the faithful discharge of the officer's duties and obedience to the orders of the court shall be to the State of California.

§ 995.830. -- If a statute or court order pursuant thereto providing for a bond does not specify the beneficiary of the bond, the bond shall be to the State of California.

§ 995.850. -- (a) The liability on a bond under this article may be enforced by or for the benefit of, and in the name of, any and all persons for whose benefit the bond is given who are damaged by breach of the condition of the bond.

(b) A person described in subdivision (a) may, in addition to any other remedy the person has, enforce the liability on the bond in the person's own name, without assignment of the bond.

§ 996.010 -- (a) If a bond is given in an action or proceeding, the court may determine that the bond is or has from any cause become insufficient because the sureties are insufficient or because the amount of the bond is insufficient.

(b) The court determination shall be upon motion supported by affidavit or upon the court's own motion. The motion shall be deemed to be an objection to the bond. The motion shall be heard and notice of motion shall be given in the same manner as an objection to the bond.

(c) Upon the determination the court shall order that a sufficient new, additional, or supplemental bond be given within a reasonable time not less than five days. The court order is subject to any limitations in the statute providing for the bond.

(d) If a sufficient bond is not given within the time required by the court order, all rights obtained by giving the original bond immediately cease and the court shall upon ex parte motion so order.

§ 996.020. -- (a) If a bond is given other than in an action or proceeding and it is shown by affidavit of a credible witness or it otherwise comes to the attention of the officer that the bond is or has from any cause become insufficient because the sureties are insufficient or because the amount of the bond is insufficient, the officer may serve an order on the principal to appear and show cause why the officer should not make a determination that the bond is insufficient. The order shall name a day not less than three or more than 10 days after service.

(b) If the principal fails to appear or show good cause on the day named why a determination that the bond is insufficient should not be made, the officer may determine that the bond is insufficient and order a sufficient new, additional, or supplemental bond to be given.

(c) If a sufficient bond is not given within 10 days after the order, the officer shall make an order vacating the rights obtained by giving the original bond, including declaring vacant any office and suspending or revoking any license or certificate for which the bond was given. Any office vacated, license suspended or revoked, or any other rights lost, for failure to give a new, additional, or supplemental bond, shall not be reinstated until a new, additional, or supplemental bond is given.

§ 996.030. -- (a) The court if a bond is given or ordered in an action or proceeding, or the officer if a bond is given or ordered other than in an action or proceeding, may determine that the amount of the bond is excessive and order the amount reduced to an amount that in the discretion of the court or officer appears proper under the circumstances. The order is subject to any limitations in the statute providing for the bond.

(b) The determination shall be made upon motion or affidavit of the principal in the same manner as a motion or affidavit for a determination under this article that a bond is insufficient. The notice of motion or the order to show cause made pursuant to affidavit shall be served on the beneficiary. The determination shall be made in the same manner and pursuant to the same procedures as a determination under this article that the bond is insufficient.

(d) The principal may give a new bond for the reduced amount. The sureties may be the same sureties as on the original bond.

§ 996.210.-- (a) The principal shall give a new, additional, or supplemental bond if the court or officer orders that a new, additional, or supplemental bond be given.

(b) The principal may give a new bond if a surety withdraws from or cancels the original bond or to obtain the release of sureties from liability on the original bond.

§ 996.220. -- (a) A new, additional, or supplemental bond shall be in the same form and have the same obligation as the original bond and shall be in all other respects the same as the original bond, and shall be in

such amount as is necessary for the purpose for which the new, additional, or supplemental bond is given.

(b) A supplemental bond shall, in addition to any other requirements, recite the names of the remaining original sureties, the name of the new surety, and the amount for which the new surety is liable. The supplemental bond shall be for the amount for which the original surety was liable on the original bond.

§ 996.230. -- A new, additional, or supplemental bond is subject to all the provisions applicable to the original bond and to the provisions of this chapter, including but not limited to the provisions governing giving and objecting to a bond and liabilities and enforcement procedures.

§ 996.240. -- If a new bond is given in place of the original bond:

(a) The original bond remains in full force and effect for all liabilities incurred before, and for acts, omissions, or causes existing or which arose before, the new bond became effective.

(b) The sureties on the original bond are not liable for any act, default, or misconduct of the principal or other breach of the condition of the bond that occurs after or for any liabilities on the bond that arise after, the new bond becomes effective.

§ 996.250. -- (a) An additional or supplemental bond does not discharge or affect the original bond. The original bond remains in full force and effect as if the additional or supplemental bond had not been given.

(b) After an additional or supplemental bond is given, the principal and sureties are liable upon either or both bonds for injury caused by breach of any condition of the bonds. Subject to subdivision (c), the beneficiary may enforce the liability on either bond, or may enforce the liability separately on both bonds and recover separate judgments of liability on both.

(c) If the beneficiary recovers separate judgments of liability on both bonds for the same cause of action, the beneficiary may enforce both judgments. The beneficiary may collect, by execution or otherwise, the costs of both proceedings to enforce the liability and the amount actually awarded to the beneficiary on the same cause of action in only one of the proceedings, and no double recovery shall be allowed.

(d) If the sureties on either bond have been compelled to pay any sum of money on account of the principal, they are entitled to recover from the sureties on the remaining bond a distributive part of the sum paid, in the proportion the amounts of the bonds bear one to the other and to the sums paid.

§ 996.310. -- This article governs cancellation of or withdrawal of a surety from a bond given other than in an action or proceeding.

§ 996.320. -- A surety may cancel or withdraw from a bond by giving a notice of cancellation or withdrawal to the officer to whom the bond was given in the same manner the bond was given, notwithstanding § 995.030. The surety shall at the same time mail or deliver a copy of the notice of cancellation or withdrawal to the principal.

§ 996.330. -- Cancellation or withdrawal of a surety is effective at the earliest of the following times:

(a) Thirty days after notice of cancellation or withdrawal is given.

(b) If a new surety is substituted for the original surety, the date the substitution becomes effective.

(c) If a new bond is given, the date the new bond becomes effective.

§ 996.340. -- (a) If the principal does not give a new bond within 30 days after notice of cancellation or withdrawal is given, all rights obtained by giving the original bond immediately cease, any office for which the bond is given is vacant, any commission for which the bond is given is revoked, and any license or registration for which the bond is given is suspended.

(b) A person whose license or registration is suspended shall not operate or carry on business pursuant to the license or registration during the period of suspension. A license or registration that is suspended may be revived only by the giving of a new bond during the license or registration period in which the cancellation or withdrawal occurred.

§ 996.350. -- If the withdrawal of a surety does not reduce the amount of the bond or the number of sureties below the minimum required by the statute providing for the bond, no new bond is required or necessary to maintain the original bond in effect.

§ 996.360. -- If a surety cancels or withdraws from a bond:

(a) The bond remains in full force and effect for all liabilities incurred before, and for acts, omissions, or causes existing or which arose before, the cancellation or withdrawal. Legal proceedings may be had therefor in all respects as though there had been no cancellation or withdrawal.

(b) The surety is not liable for any act, default, or misconduct of the principal or other breach of the condition of the bond that occurs after, or for any liabilities on the bond that arise after, the cancellation or withdrawal.

(c) The cancellation or withdrawal does not affect the bond as to the remaining sureties, or alter or change their liability in any respect.

APPENDIX C

Examples of how financial assurances should be made payable.

Example 1: “.....made payable to _____ County and the Department of Conservation...”

Example 2: “.....made payable to the City of _____ and the Department of Conservation”

Example 3: “.....made payable to _____ County and the Department of Conservation and the Bureau of Land Management”

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